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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,742	11/21/2005	Shin Ishimaru	050770	2296
23850 7590 04/02/2008 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005			EXAMINER STEWART, JASON-DENNIS NEILKEN	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 04/02/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/557,742

**Applicant(s)**

ISHIMARU ET AL.

**Examiner**

JASON-DENNIS STEWART

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The following is a Final Office action in response to communications received on 12/20/2007. Claim 1 has been amended. Therefore, Claims 1-15 are pending and discussed below.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen et al. 6,146,416 in view of Hyodoh et al. 20030149475.

3. Re Claim 1, Andersen discloses a first expandable stent body 190, a first tapered portion 180, a middle strut 170, a second tapered section 160, a second expandable stent body 150, a third tapered section 140, and a strut in a contracted position 130 all in series (fig. 1c). However, Andersen does not teach the following claimed limitation: formed by twisting at least one filament in a spiral fashion.

Hyodah discloses a stent formed by twisting at least one filament in a spiral fashion (abstract, Fig. 1c). Hyodoh further discloses a stent with a middle contracted configuration as it "normal" state (paragraph 306, Fig. 10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Andersen i.v. Hyodah in order to create a self-expandable, woven device to be used as a stent as taught by Hyodah (abstract).

4. *Re Claim 2*, Andersen teaches the invention as claimed and as discussed above. However, Andersen does not teach the following claimed limitation: the strut formed by twisting at least one filament in a spiral fashion.

Hyodah teaches the strut formed by twisting at least one filament in a spiral fashion (abstract, Fig. 1c).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Andersen i.v., Hyodah in order to create a self-expandable, woven device to be used as a stent as taught by Hyodah (abstract).

5. *Re Claim 3*, Andersen teaches the invention as claimed and as discussed above. However, Andersen does not teach the following claimed limitation: strut being a rod-shaped body of polyurethane.

Hyodah teaches covering strut with polyurethane (paragraph 24). Covering the strut body with polyurethane would create a rod shaped polyurethane body.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Andersen i.v., Hyodah in order to create a self-expandable, woven device to be used as a stent as taught by Hyodah (abstract).

6. *Re Claims 4-6* Andersen teaches a NITINOL filament (col. 6, l. 60).

7. *Re Claim 7*, Andersen teaches a stainless steel filament (col. 6, l. 60).

8. *Re Claim 8*, Andersen teaches a polyester filament (col. 6, l. 61).

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9. *Re* Claim 9, Andersen i.v., Hyodoh teaches the device of claim 1, however, Andersen i.v., Hyodah does not positively recite the claimed ranges. It has been held, "the normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages", *in re Peterson*. **See MPEP**

**2144.05, section II, part A.**

10. *Re* Claim 10, Andersen teaches a catheter (col. 1, ll. 23-31).

11. *Re* Claim 11, Andersen teaches the invention as claimed and as discussed above. However, Andersen does not teach the following claimed limitation: graft material.

Hyodah teaches covering a substantially cylindrical stent with graft material (abstract). This would render the graft cylindrical in shape.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Andersen i.v., Hyodah in order to create a self-expandable, woven device to be used as a stent as taught by Hyodah (abstract).

12. *Re* Claim 15, Andersen teaches a catheter (col. 1, ll. 23-31).

13. Claims 12-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen et al. 6,146,416 i.v., Hyodoh et al. 2003/0149475 further i.v., White et al. 5,782,904.

14. *Re* Claims 12 and 14, Andersen i.v., Hyodoh teaches the invention as claimed and as discussed above. However Andersen i.v., Hyodoh does not teach the following claimed limitation: sutures.

White teaches sutures to adhere graft material to a wire frame (col. 3, ll. 17-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Andersen i.v., Hyodoh further i.v., White in order to form an intraluminal graft including a tubular graft body as taught by White (abstract).

***Response to Arguments***

15. Applicant's arguments with respect to claims 1-11 and 15 have been considered but are moot in view of the new ground(s) of rejection.

16. Applicant's arguments with respect to claims 12-14 have been fully considered but they are not persuasive. Suturing is the manner in which the graft material is adhered to the wire frame. Suturing is a reversible process as anything that is sutured can have those sutures broken or removed.

***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON-DENNIS STEWART whose telephone number is (571)270-3080. The examiner can normally be reached on M-F (alt Fridays off) 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571)272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS  
/Jason-Dennis Stewart/  
Examiner, Art Unit 3738

/Brian E Pellegrino/  
Primary Examiner, Art Unit 3738